IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1128 of 1985

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)
Versus
MAKNANI ROSHANBHAI ABDUL KARIM & 1 - Defendant(s)

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Appearance :
MS JYOTI MEHTA for MR HARDIK C RAWAL for Appellant(s) : 1,
None for Respondents

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 29/06/2007

ORAL JUDGMENT

Ms. Jyoti Mehta under the authority of Shri Hardik C. Raval, learned counsel for the appellant; none for the respondents though served.

2. The appellant GSRTC, being aggrieved by the award dated 1st August, 1984 passed by the Motor Accident Claims Tribunal [Main] Junagadh, in M.A.C.Petition No. 113/83 is before this Court with a complaint that extra amount has been ordered to be paid in favour of the respondent claimant.

3. The learned Tribunal had awarded a sum of Rs. 45,200/- with 6% interest, in favour of the respondent-claimant. The appellant Corporation has confined its appeal to a sum of Rs 25,000/- only, which would mean that they are challenging the quantum and not the accident or their liability to pay the money.

4. As the Corporation is not denying its liability to pay the money, responsibility of its driver in causing the accident, it is not necessary for this Court to refer to the facts in detail. The facts show that as a result of the injury, the claimant suffered injuries in nature of fracture of his bones of the left limb and that of iliac. The claimant was required to take preliminary treatment as indoor patient for at

least about one and half months, his leg was kept on traction for 35 days, plaster was applied on the leg and it was changed from time to time for a period of nine months. Fractures of Tibia and Fibula could not unite, therefore, bone grafting was to be performed and only thereafter suffering a nightmare for a period of one year, the claimant could regain his health. The Tribunal has awarded a sum of Rs. 25,000/- towards pain, suffering and loss of amenities of life. In the opinion of this Court, when a person is required to lie down on a bed for a period of one year, his agony cannot be understood by any person other than the person who has suffered such pain and sufferings. The Court would only make a guess work. The Court ordinarily would say that it would decide the matter keeping itself in place of the injured, but such decision would be given by the Court as a Court and not as injured person. Shock, sufferings, pain and loss of amenities of life cannot be ordinarily translated in terms of money. A Court has to have a human approach

after taking into consideration the totality of the facts. In case of one year's confinement to the bed, amount of Rs. 25,000/- as compensation in the opinion of this Court, would not be excessive. Undisputedly, the claimant was earning sum of Rs. 1100/- per month, he remained bed-ridden for 11 months, therefore, on the basis of the calculation, the Tribunal rightly awarded the sum of Rs. 13,000/- towards loss of earning and loss of leave.

5. It was lastly submitted by Ms. Mehta that amount of Rs. 7,000/- towards cost of treatment, medicines and special diet etc. was not required to be awarded, specially when the claimant made a statement that costs of treatment and medicines etc. were reimbursed to him. In the opinion of this Court, the Tribunal did not award the sum of Rs. 7000/- under the head of costs of treatment and medicines only, but it also awarded the amount under the head of special diet. If Rs. 20/- per day is taken to be reasonable amount for daily special diet, then, for one year, total amount would be Rs. 7000/-.

6. Taking into consideration that the claimant was also entitled to special diet, I do not think that this Court is required to make any interference even under the head of costs of treatment, medicines and special diet.

7. I find no reason to interfere. The appeal deserves to and is accordingly dismissed. No costs. Interim relief, if any, is vacated.

[R.S. GARG, J.]

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